

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MCINNIS USA INC.,

Plaintiff,

-against-

AGGRECEM MECHANICAL, LLC,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/18/2021

1:21-cv-1253-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff filed its initial Complaint on February 11, 2021. [ECF No. 1]. After Defendant failed to appear or respond, Plaintiff obtained a Certificate of Default from the Clerk of the Court and thereafter moved for a default judgment on April 6, 2021. [ECF No. 12]. The Court held a hearing on the Motion on August 18, 2021.

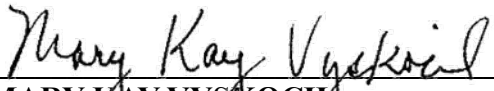
It is hereby ORDERED that the Motion for Default Judgment [ECF No. 12] is DENIED without prejudice to renewal for failure to allege subject matter jurisdiction. The Complaint alleges that “[u]pon information and belief, none of [Defendant’s] members is a citizen of Delaware or Connecticut.” Compl. ¶ 3. Plaintiff must allege the citizenship of the limited liability company members. *See Flemming v. Port Authority of New York and New Jersey*, 2021 WL 878558, at *2 (E.D.N.Y. Mar. 9, 2021). The Clerk of the Court respectfully is requested to close the motion at ECF No. 12.

After Plaintiff obtained the Certificate of Default, a principal of Defendant, Mr. Shields, made a submission to the Clerk of the Court. Mr. Shields did not attend the hearing, but immediately after the hearing called to inquire about access, noting that he dialed into the incorrect number. The Court additionally notes that if Defendant wishes to contest any renewal motion for default judgment, Defendant must appear by counsel. A corporate defendant cannot

appear pro se and must be represented by counsel if it wishes to respond. *See, e.g., De Jesus Rosario v. Mis Hijos Deli Corp.*, 491 F. Supp. 3d 8, 9 n.2.

SO ORDERED.

Date: August 18, 2021
New York, NY


MARY KAY VYSKOCIL
United States District Judge